



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

Office of the Regional Administrator

July 16, 2020

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Stephen L. Tatum, Jr.
Chief of Staff

TO: Ken McQueen
Regional Administrator

I have consulted with the Office of General Counsel/Ethics (OGC/Ethics) and have been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own attorney bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I presently do not have any financial conflicts of interest. I will keep my Regional Ethics Officials and OGC/Ethics informed of any changes that might change this analysis. With respect to my outside activity as a member of the Board of the Texas Water Trade, I have sought and received prior approval from OGC Ethics. I have been advised by OGC Ethics that I cannot work on any particular matters that will have a direct and predictable effect upon the Texas Water Trade as a specific party or as a member of an affected class, as the financial interests of Texas Water Trade are imputed to me pursuant to 18 USC by 18 U.S.C. § 208(a). Although I have been advised that I

need not seek prior approval of my other outside activity, I am a member and co-founder of Tobosa Farms LLC and have been advised that I cannot work on any particular matters that will have a direct and predictable effect upon Tobosa Farms LLC as a specific party or as a member of an affected class, as the financial interests of Tobosa Farms LLC are imputed to me pursuant to 18 USC by 18 U.S.C. § 208(a).¹

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employers, **Cantey Hanger LLP; SLT Strategies; Covington Civil and Environmental**; or the **Texas Commission on Environmental Quality**; or any former client to whom I provided legal services during the past two years prior to my joining federal service, is a party or represents a party. Under the terms of the Ethics Pledge, this recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”² Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

Set forth on the next page are my former clients identified in consultation with OGC/Ethics that have or may have environmental issues that could potentially arise with respect to my duties here at EPA.³

¹ Tobosa Farms LLC is a farmland brokerage service that does not own or control any land nor does it engage in farming operations.

² See Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory LA-17-03 (3/20/17).

³ For any former client that is not listed, I understand that I am personally obliged not to participate in specific party matters for the duration of my ethics obligations.

RECUSAL LIST PURSUANT TO EXECUTIVE ORDER 13770 In effect until May 10, 2022	
FORMER EMPLOYERS: Cantey Hanger LLP; SLT Strategies; Covington Civil and Environmental; Texas Commission on Environmental Quality	
FORMER CLIENTS: Aransas County Bent Trail Homeowners Association Cactus Environmental Services CG Environmental Covington Civil and Environmental Crestline Investors DFW Airport Dr. John Honeycutt Jackson Solar	Odes Industries LLC Shannon Brewing Tarrant Regional Water District Texas Parks and Wildlife Foundation Texas Water Trade Texocan Tillico Exploration and Production Tobosa Farms LLC Trinity River Authority Trinity River Vision Western Extrusions

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Thus, I will not participate in the following matters:

CASE NAME and/or SUBJECT MATTER	CITATION and/or DESCRIPTION:
Permitting	Ascend Performance Materials Texas Inc. for the renewal and major amendment of RCRA Permit/Compliance Plan No. 50189
Rulemaking	Adoption of Amendments to 30 TAC Chapter 37, Financial Assurance, and Chapter 336, Radioactive Substance Rules (Rule Project No. 2013-056-037-WS)
State Implementation Plan	Adoption of the Dallas-Fort Worth (DFW) Attainment Demonstration State Implementation Plan (SIP) revision to meet the 2008 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) (Non-Rule Project No. 2013-015-SIP-NR)
State Implementation Plan	Consideration of the adoption of the State Implementation Plan (SIP) revision for the Houston-Galveston-Brazoria (HGB) Area Redesignation Substitute for the One-Hour Ozone National Ambient Air Quality Standard (NAAQS) (Non-Rule Project No. 2014-011-SIP-NR)

Rulemaking	Proposal for amended, repealed and new sections of Chapter 336, Radioactive Substance Rules (Rule Project No. 2015-012-336-WS)
State Implementation Plan	Proposed SIP revision submitted to EPA for the Houston-Galveston-Brazoria Area Redesignation Substitute for the 1997 Eight-Hour Ozone NAAQS (Project No. 2015-001-SIP-NR)
State Implementation Plan	Proposed SIP revision submitted to EPA for the Dallas-Fort Worth Area Redesignation Substitute for the 1997 Eight-Hour Ozone NAAQS (Project No. 2015-002-SIP-NR)
State Implementation Plan	Adoption of the Infrastructure and Transport State Implementation Plan Revision for the 2012 primary annual fine particulate matter (PM _{2.5}) National Ambient Air Quality Standard (Non-Rule Project No. 2014-029-SIP-NR) *With respect to visibility transport.
Rulemaking	Proposed new and amended section of 30 Texas Administrative Code Chapter 335, Industrial Solid Water, and Municipal Hazardous Waste
State Implementation Plan	Proposal for Dallas-Fort Worth (DFW) Nonattainment Area Attainment Demonstration (AD) State Implementation Plan (SIP) revision to meet the 2008 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) for the 2017 Attainment Year (Non-Rule Project No. 2015-014-SIP-NR)
State Implementation Plan	Adoption, State Implementation Plan revision submitted to EPA for the Houston-Galveston-Brazoria (HGB) Area Redesignation Substitute for the 1997 Eight-Hour Ozone National Ambient Air Quality Standard (Project No. 2015-001-SIP-NR)
State Implementation Plan	Adoption, State Implementation Plan revision for the Dallas-Fort Worth (DFW) Area Redesignation Substitute for the One-Hour Ozone and the 1997 Eight-Hour Ozone National Ambient Air Quality Standards (Project No. 2015-002-SIP-NR)
State Implementation Plan	Adoption, the Dallas-Fort Worth (DFW) Nonattainment Area Attainment Demonstration (AD) State Implementation Plan (SIP) revision to meet the 2008 Eight-Hour Ozone National Ambient Air Quality Standard (NAAQS) for the 2017 Attainment Year (Non-Rule Project No. 2015-014-SIP-NR)
Rulemaking	Proposal, amended and repealed sections of 30 Texas Administrative Code Chapter 122, regarding the Federal Operating Permits Program (Rule Project No. 2016-012-122-AI)
Rulemaking	Adoption, proposed amended sections of Chapter 290, Public Drinking Water (Revised Total Coliform Rule) (Rule Project No. 2015-035-290-OW)
Permitting	City of Farmers Branch for major amendment of a Type I MSW landfill (MSW Permit Application No. 1312B)
Rulemaking	Proposal, amended sections of 30 Texas Administrative Code Chapter 307, regarding the Texas Surface Water Quality Standards (Rule Project No. 2016-002-307-OW)
Rulemaking	Adoption, amendments to 30 TAC Chapter 334 rules regarding Underground and Aboveground Storage Tanks for publication and hearing (Rule Project No. 2016-019-334-CE)

Rulemaking	Adoption, amended sections of 30 Texas Administrative Code Chapter 307, regarding the Texas Surface Water Quality Standards (Rule Project No. 2016-002-307-OW)
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If other matters arise that are not on this list, I will recuse myself from those matters, direct that these matters be sent to my screener, and work with OGC Ethics to add these items to my recusal statement.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters from which I am recused, I will instruct David Gray, Deputy Regional Administrator, to assist in screening EPA matters directed to my attention. All inquiries and comments involving my recusals should be directed to Mr. Gray without my knowledge or involvement.

If Mr. Gray determines that a particular matter will directly involve any of the entities listed on my recusal list, then he will refer it for action or assignment to another, without my knowledge or involvement. In the event that he is unsure whether an issue is a particular matter from which I am recused, then he will consult with OGC/Ethics and/or the Region's ethics team for a determination. I will provide a copy of this memorandum to Justina Fugh, Director, Ethics Office.

UPDATE AS NECESSARY

In consultation with OGC/Ethics or the Region's ethics team, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you and OGC/Ethics.

cc: David W. Gray, Deputy Regional Administrator
Suzanne J. Smith, Acting Regional Counsel
Terry Leddon, Assistant Deputy Ethics Official
Justina Fugh, Director, Ethics Office